IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.12876 of 2006

For Approval and Signature:
HONOURABLE MR.JUSTICE J.M.PANCHAL Sd/-

HON'BLE SMT.JUSTICE ABHILASHA KUMARI Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ? **- No**
2	To be referred to the Reporter or not ? **- No**
3	Whether their Lordships wish to see the fair copy of the judgment ? **- No**
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? **- No**
5	Whether it is to be circulated to the civil judge ? **- No**

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LEENABEN KETANBHAI SHAH - Petitioner(s)
Versus
THE TORRENT POWER AEC LTD. & 1 - Respondent(s)

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Appearance :
MR ANIL C THAKORE for Petitioner(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 1
MR RM CHHAYA for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 04/08/2006
ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. RULE. Mr. R.M. Chhaya, learned counsel waives service of notice on behalf of the respondent No.2. The record

shows that though the respondent No.1 is served with notice for final disposal of the petition, it has neither appeared through its lawyer nor its constituted agent, nor it has filed affidavit-in-reply controverting the averments made in the petition. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition, under Article 226 of the Constitution of India, the petitioner i.e. Ms. Leenaben Ketanbhai Shah has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. The Torrent Power AEC Ltd. to supply electric connection to the building constructed by her. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Municipal Corporation to grant Building Use Permission to enable her to use the building constructed by her.

3. From the record of the case it is evident that the petitioner is owner of the land bearing Sub-Plot No.3 of Final Plot No.331 of Town Planning Scheme No.21, situated at Ambawadi, Ahmedabad. The petitioner wanted to develop the land for commercial purpose. Therefore, she made an application before the

Ahmedabad Municipal Corporation for obtaining development permission. The Ahmedabad Municipal Corporation granted Commencement Letter (R*ajachitthi*) on August 17, 2005, which is quite evident from the contents of the document produced at Annexure 'A' to the petition. Pursuant to the said development permission, the petitioner has constructed one building consisting of ground floor plus four floors for commercial purpose. After the construction of the building was over, it was incumbent upon the petitioner to obtain Building Use Permission from the respondent No.2 and thereafter to apply to the respondent No.1 for supply of the electric connection to the building constructed by her. However, without obtaining Building Use Permission, the petitioner approached the respondent No.1 with a prayer to supply electricity to the building constructed by her. The said request has been turned down by the respondent No.1, which is quite evident from the contents of the letter dated June 14, 2006, addressed by the General Manager of the respondent No.1 to the petitioner, produced at Annexure 'B' to the petition. By the said communication the petitioner has been called upon to produce either

Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electricity to the building constructed by her. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing before this Bench on July 5, 2006 and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued making it returnable on July 18, 2006. As observed earlier, the respondent No.1 is duly served, but, it has neither appeared before the Court nor contested the petition.

5. This Court has heard Mr.Anil C. Thakore, learned counsel for the petitioner, and Mr.R.M. Chhaya, learned counsel for the respondent No.2. This Court has also considered the documents forming part of the petition. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(i) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(ii) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(iii) The petitioner shall apply to the respondent No.1., i.e. The Torrent Power AEC Limited, for providing electricity connection to the low-rise Commercial Complex constructed by her with a proper application/form/format and by paying charges within a week.

(iv) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to the low-rise Commercial Complex constructed by the petitioner within one month on usual terms and conditions.

(v) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in

this order, the Ahmedabad Municipal Corporation shall inform The Torrent Power AEC Limited to disconnect the electricity supply made available to the low-rise Commercial Complex constructed by the petitioner and in such an eventuality, it would be open to The Torrent Power AEC Limited to disconnect the electricity supply provided to the building constructed by the petitioner within a period of fifteen days.

(vi) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask The Torrent Power AEC Limited to disconnect the electricity supply provided to the low-rise Commercial Complex constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to The Torrent Power AEC Limited to disconnect the electricity supply provided to the low-rise Commercial Complex constructed by the petitioner.

(vii) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to low-rise

Commercial Complex constructed by her. This Undertaking shall be filed along with the application/form/format meant for the purpose.

6. Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

Sd/-
[J.M. Panchal, J.]

Sd/-
[Smt. Abhilasha Kumari, J]

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Bhavesh*